



3626

Attorney Docket no: PHO-104

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
))
 Watcher et al.))
))
Serial No.: 09/096,832))
))
Filed: June 12, 1998))
))
For: Improved Methods and Apparatus For))
 Multi-Photon Photo-Activation of))
 Therapeutic Agents))
))
Examiner: D. Nguyen))

Art Unit: 3626))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner for Patents,
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January 15, 2003

(Date of Deposit)

Shannon Wallace

Name of applicant, assignee, or Registered Rep.

Shannon Wallace 1/15/03

Signature

Date

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JAN 23 2004

GROUP 3600

January 15, 2004

REQUEST FOR WITHDRAWAL OF SUSPENSION OF APPLICATION

Sir:

It is the undersign's understanding that prosecution of the above-identified application has been suspended pending the resolution of Patent Interference No. 105,133. As shown in the attached Judgment, that interference has now been resolved in favor of Fisher. The Fisher patent is assigned to the same assignee as the present application.

Accordingly, it is requested that the suspension of prosecution be withdrawn, and prosecution immediately commenced for the present application. Further, in accordance with the Examiner's communication of September 4, 2002, all the claims are allowable. Therefore, it is requested that the application now be allowed.

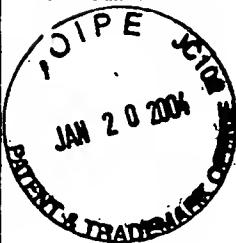
Favorable consideration is earnestly solicited.

Respectfully submitted,



Mark J. Murphy
Registration No. 34,225

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MAHLER, Ltd.
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**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION
AND IS NOT BINDING PRECEDENT OF THE BOARD**

Paper No. 29

Filed by: Trial Section Merits Panel
Mail Stop Interference
P. O. Box 1450
Alexandria, VA 22313-1450
Tel: 703-308-9797 Fax: 703-305-0942

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

FAXED

WALTER G. FISHER, ERIC A. WACHTER
and H. CRAIG DEES,
Junior Party,
(Patent No. 5,829,448)

JAN 13 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

v.

PARAS N. PRASAD, JAYANT D. BHAWALKAR,
GUANG S. HE, CHAN F. ZHAO
and JAROSLAW ZIEBA,
Senior Party
(Application 09/265,625)

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Before LEE, LANE and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

Judgment

On January 8, 2004, senior party Prasad filed a paper requesting entry of adverse judgment. The request is granted. It is

ORDERED that judgment as to the subject matter of Count 1 is hereby entered against senior party PARAS N. PRASAD, JAYANT D. BHAWALKAR, GUANG S. HE, CHAN F.

Interference No. 105,133

Fisher v. Prasad

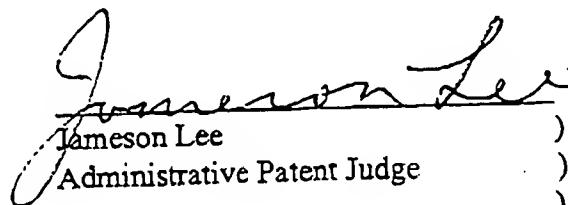
ZHAO and JAROSLAW ZIEBA;

FURTHER ORDERED that senior party PARAS N. PRASAD, JAYANT D. BHAWALKAR, GUANG S. HE, CHAN F. ZHAO and JAROSLAW ZIEBA is not entitled to its application claims 290-310 and 313-320 which correspond to Count 1;

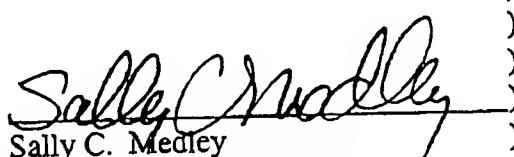
FURTHER ORDERED that to the extent the senior party desires to abandon claims additional to those corresponding to the count, it shall take that up with the primary examiner after termination of the interference;

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and 37 CFR § 1.666; and

FURTHER ORDERED that a copy of this judgment be filed in the respective involved application or patent of the parties.


Jameson Lee
Administrative Patent Judge


Sally Gardner Lane
Administrative Patent Judge


Sally C. Medley
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

Interference No. 105,133

Fisher v. Prasad

By Facsimile

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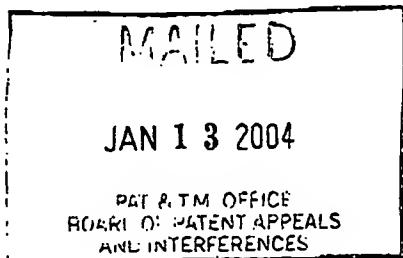
200 W. Adams Street, Suite 2850

Chicago, Illinois 60606

Paper No.27

Interference No. 105133

WALTER G. FISHER

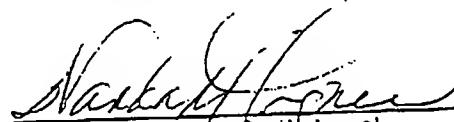


V.

PARAS N. PRASAD

The copy of the agreement under 35 U.S.C § 135(c) filed by Prasad, on January 8, 2004, is acknowledged. Pursuant to the request, this agreement will be kept separate from the file of the interference as provided in the statute.

Tw



Wanda M. Tigner, Sup'y Legal
Instrument Examiner
Board of Patent Appeals and Interferences
(703) 308-9797

TITLE:	TWO-PHOTON UPCONVERTING DYES AND
	APPLICATIONS
REAL PARTY IN INTEREST:	XANTECH PHARMACEUTICALS, INC. (for WALTER G. FISHER)
	THE RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK (for PARAS N. PRASAD)
GROUP:	3626